

Service Date: February 23, 1988

DEPARTMENT OF PUBLIC SERVICE REGULATION
BEFORE THE PUBLIC SERVICE COMMISSION
OF THE STATE OF MONTANA

* * * * *

IN THE MATTER of the Application)	UTILITY DIVISION
of the BUTTE WATER COMPANY for)	
Authority to Increase Rates and)	DOCKET NO. 87.6.30
Charges for Water Service to its)	
Butte, Montana Customers.)	ORDER NO. 5331

APPEARANCES

FOR THE APPLICANT:

James Robischon, Attorney at Law, Murphy, Robinson, Heckathorn & Phillips P.O. Box 759, Kalispell, Montana 59903

FOR THE INTERVENORS:

Mary Wright, Staff Attorney, Montana Consumer Counsel, 34 West 6th Avenue, Helena, Montana 59620

FOR THE COMMISSION:

Geralyn Driscoll, Staff Attorney, 2701 Prospect Avenue, Helena, Montana 59620-2601

Ron Woods, Rate Analyst, 2701 Prospect Avenue, Helena, Montana 59620-2601

BEFORE:

JOHN DRISCOLL, Commissioner & Hearing Examiner
HOWARD ELLIS, Commissioner
TOM MONAHAN, Commissioner

BACKGROUND

1. On June 17, 1987, Butte Water Company (Applicant or BWC) filed an application with this Commission for authority to increase water rates for its Butte, Montana customers on a permanent basis by approximately 22.38 percent. This constitutes an annual revenue increase of approximately \$729,841.

2. Concurrent with its filing for a permanent increase in rates, BWC filed an application for an interim increase in rates of 4.6 percent equalling a revenue increase of approximately \$150,537 or 21 percent of the proposed permanent increase.

3. On October 27, 1987, after proper notice, a hearing was held in the Butte Public Library, Butte, Montana. For the convenience of the consuming public there was also a night session that commenced at 7 p.m. on October 27, 1987, at the same location.

The purpose of the public hearing was to consider the merits of the Applicant's proposed water rate adjustment.

4. At the public hearing, the Applicant presented the testimony and exhibits of:

James Chelini, President and General Manager, BWC
Don Cox, Certified Public Accountant
Mike Patterson, Vice President and Operations Manager, BWC

5. The Montana Consumer Counsel (MCC) presented the testimony of one expert witness, Frank Buckley, Rate Analyst, Montana Consumer Counsel, and 17 public witnesses. The public testimony in

this Docket was diverse; some consumers expressed qualified support for the increase while others expressed total opposition. A number of the consumers testified regarding service related problems with the system such as low pressure, sprinkling restrictions, sediment and debris in the water, clogging of sand traps and damage to inside facilities resulting from sediment and debris in the water.

FINDINGS OF FACT

6. The test year ending December 31, 1986, was uncontested and is found by the Commission to be a reasonable period within which to measure the Applicant's utility revenues, expenses and returns for the purpose of determining a fair and reasonable level of rates for water service.

CAPITAL STRUCTURE

7. At the time of filing for rate relief in this docket the Applicant's actual capital structure consisted of 100 percent equity. For rate case presentation, BWC presented the following hypothetical capital structure in "Data Furnished in Compliance with PSC Minimum Rate Case Requirements, Statement F."

Debt	\$1,845,926	50.0%
Equity	<u>\$1,845,926</u>	<u>50.0%</u>
TOTAL	\$3,691,852	100.0%

8. This hypothetical capital structure was originally presented to the Commission as part of a stipulation between the Applicant and the Montana Consumer Counsel, in Docket No. 86.3.7.

In that docket the Applicant and the MCC agreed to a 50/50 debt-equity ratio because in their opinion that is reasonable and compares favorably with that of other regulated utilities.

9. The utility industry is capital intensive and leverage is widely used to finance large plant additions. A debt to equity ratio of 50/50 as proposed by the Applicant is not an atypical ratio in the utility industry, and was not challenged by any party participating in this proceeding.

10. The Commission finds that the hypothetical capital structure proposed by the Applicant is reasonable in this Docket.

COST OF DEBT

11. The Commission has accepted a hypothetical capital structure in this Docket that assumes a debt component in the Applicant's capital structure; in actuality there is no debt and no contractual obligations have been entered into that would establish an actual cost of debt for the Applicant.

12. Absent contractual obligations that would establish the cost of debt, the Commission must determine a reasonable cost based on reliable information that fairly reflects BWC's cost of attracting this type of capital.

13. The Applicant's witnesses testified that the 11.50 percent cost of debt assumed in this filing was based on interest rates currently available at area banks for long-term, fixed rate commercial loans. This cost of debt is a .25 percent reduction in debt cost from that authorized by the Commission in BWC's last general rate order. It was an uncontested issue. The Commission finds the cost of debt proposed by the Applicant to be reasonable in this Docket.

COST OF EQUITY

14. The return on equity of 13.0 percent proposed by the Applicant was not a contested issue in this Docket and is within the range of the returns recently authorized by the Commission for other utilities under its jurisdiction. Therefore, the requested return on equity of 13.0 percent is accepted by the Commission.

CAPITAL STRUCTURE AND WEIGHTED COST OF TOTAL CAPITAL

15. The Commission finds the following capital structure and composite cost of total capital to be reasonable:

<u>Description</u>	<u>Amount</u>	<u>Ratio</u>	<u>Cost</u>	<u>Weighted Cost</u>
Debt	\$1,845,926	50.0%	11.50%	5.75%
Equity	1,845,926	50.0%	13.00%	6.50%
	\$3,691,852	100.00%		12.25%

OPERATING REVENUES

16. The Applicant proposed test period operating revenues of \$3,261,439. The MCC's expert witness, Frank Buckley, contended that BWC's reported test period operating revenues should be increased by \$98,399.

17. The MCC proposed two adjustments increasing the Applicant's operating revenues inclusion of \$3,645 in "Labor and Supply Profits" and \$94,754 of gain realized from the sale of land. These issues were fully developed by the parties in Docket No. 86.3.7 and were discussed by the Commission in its Order Nos. 5194a and b. In those orders the Commission found that these items were properly includable in the Applicant's operating revenues. BWC's exclusion of these items from its test period revenues stems from its disagreement with the Commission's findings from the previously mentioned orders, which are on appeal to district court.

18. The Applicant did not present any new testimony in this Docket that would persuade the Commission that the treatment afforded these items in the previous orders should be altered. The

Commission finds that the MCC's proposal to increase test period operating revenues by \$98,399 complies with prior orders. The Commission finds the Applicant's test period operating revenues to be \$3,359,838.

OPERATION AND MAINTENANCE EXPENSE

19. On October 9, 1987, BWC, through its expert witness Don Cox, filed revised financial exhibits that proposed total test period operation and maintenance expenses of \$3,089,525. This includes pro forma adjustments increasing expenses by \$489,994.

20. At the hearing Don Cox corrected the revised test period operation and maintenance expenses submitted to the Commission on October 9, 1987. The corrections proposed by Mr. Cox produced a net increase of \$38,567 in the revised operation and maintenance resulting in pro forma adjustments increasing expenses by a total of \$528,561. These corrections were not challenged by any party participating in this proceeding. Any Commission adjustments to the Applicant's operation and maintenance expense are to the pro forma increase amount of \$528,561.

21. The Consumer Counsel's expert witness, Frank Buckley, proposed a number of adjustments to the Applicant's test period operation and maintenance expenses. Some of the adjustments proposed by Mr. Buckley were accepted by the Applicant and are

incorporated in Mr. Cox's corrections. The Commission will address only those issues which remain contested.

The following items are the issues that remain as contested between the Applicant and the MCC:

- 1) Senate Bill No. 28 expenses
- 2) Pension Expense
- 3) Repair expense for Big Hole pump

22. The Montana Legislature passed Senate Bill No. 28 during its 1987 legislative session. For purposes of discussion in this order the term SB 28 will be used. SB 28 is as codified as 69-4-511, MCA. SB 28 changes the responsibility for maintenance and repair of water service lines. Prior to the October 1, 1987, effective date of SB 28, the responsibility for repair and maintenance of the entire water service line from the water main to the premises of the consumer was the consumer's obligation. On October 1, 1987, it became the responsibility of the private water service provider to maintain and repair the portion of the water service line from the company's water main to the consumer's property line.

23. In testimony both the MCC and BWC acknowledged that BWC will incur additional expenses as a result of the legislated change in repair and maintenance responsibility. The only area of disagreement surrounding SB 28 is the ratemaking treatment during the first year. Both the MCC and BWC concede that the Applicant

has no historical data regarding expenses associated with the repair and maintenance of water service lines.

The Applicant has proposed that the costs associated with repair and maintenance that will now be BWC's responsibility be recovered as a current operating expense of the utility. Based upon contractor information bids the Applicant in its financial data has provided a cost estimate of the expense that will be incurred in discharging this obligation.

The MCC proposed that the first year of additional expenses associated with SB 28 be capitalized. Succeeding year's costs would be reflected as an operating expense using the first year as an estimate. The first year's capitalized expense would be recovered through amortization over a reasonable time frame.

24. SB 28 imposes an additional expense on private water service providers that in the Commission's view is properly recoverable from ratepayers. For a pro forma adjustment increasing or decreasing expenses to be included in rates, it must meet the criteria of ARM 38.5.106 that it is a known and measurable change becoming effective within 12 months of the close of the test period. The statutory revision requiring private water service providers to repair and maintain service lines is a known change

affecting a privately owned water utility. The question is whether this change in financial responsibility is measurable.

25. The MCC contends that the Commission should deny BWC's request to recover as an operating cost expenses associated with SB 28. The MCC opposes BWC'S original estimate of \$205,000, and subsequent revision, for recovery of SB 28 on the grounds that the adjustment does not meet the requirements contained in Commission Rule 38.5.106, which states in part "...no adjustments will be permitted unless based on changes in facilities, operations or costs which are known with certainty and measurable with reasonable accuracy at the time of filing." The MCC contends that the Applicant's proposed SB 28 adjustment was not measurable with reasonable accuracy at the time of filing. To support this position the MCC points to the testimony of the Applicant's witnesses that the reported cost is based on estimates provided by contractors who have done the maintenance on the part of the service line that is now the Applicant's responsibility. MCC also points out that there was a substantial reduction in the overall cost estimate between the original application and the late-filed exhibits.

26. The Commission agrees with the MCC that the Applicant's original cost estimate of additional expenses to be incurred because of SB 28 did not meet the requirement of measurable with

reasonable accuracy. But the revised estimate provided in the late-filed exhibit does satisfy this test. The Applicant's assumptions made in development of its original estimate were fully explored during the course of this proceeding and it was shown that the original adjustment was erroneous. In its late-filed exhibit BWC corrected the errors in its SB 28 adjustment for maintenance.

27. The Applicant estimates that it will incur additional expenses in the amount of \$81,904 in discharging its statutory obligation to maintain and repair service lines from the main to property line of the consumer. The Commission will allow recovery of this amount subject to the true-up described in the following finding. In its original application BWC determined that the additional service line maintenance requirement would cost the company \$205,000 and this is the amount included in its pro forma operation and maintenance expense increase. Since the Commission is recognizing the adjusted figure provided in late-filed exhibits, the Applicant's pro forma operation and maintenance expense should be reduced by \$123,096.

28. The MCC is correct that the exact amount of expenses cannot be quantified at this time and BWC is correct that the utility should be able to recover these expense. To balance these

interests the Commission requires BWC to keep an account showing the expenses actually incurred to implement SB 28. This account will be reviewed by the Commission staff and MCC to determine the accuracy of expenses. At the end of one year from the date of this order the actual expense will be compared to the expense and rates adjusted prospectively to adjust for actual expenses incurred.

29. There is a second type of service line maintenance for which the Applicant will be responsible, that maintenance being the thawing of frozen water service lines. The Applicant in its filing has indicated that it anticipates its expenses to increase by \$37,250 as a result of its assumption of this responsibility. An examination of the underlying work papers developing this increased cost indicates that the Applicant used "average" number of service line freeze ups per winter and worst case scenario of freeze ups, to develop the \$37,250 annual expense (see response to MCC data request no. 10). In the Commission's view the Applicant's calculation which represents an averaging of costs, developed for an "average" number of freeze ups and worst case number of freeze ups, is wrong.

If the 120 frozen service lines alluded to in the Applicant's data response is the "average" then this is the arithmetic mean of frozen service lines experienced on the system and, therefore, would take into consideration the high and low number of freeze ups

experienced. Based on the preceding the Commission finds that the Applicant's cost for maintaining frozen service lines should be established by the cost developed for the 120 "average" number of frozen services experienced on the system. The information submitted by the Applicant indicates that it will cost \$11,200 annually to thaw 120 frozen service lines. This figure will also be adjusted at the end of one year. The Commission finds that the Applicant's pro forma expenses should be reduced by \$26,050.

30. The second issue contested by the MCC is BWC's proposal to increase pension expense to accumulate an unfunded past service liability over a three year period. The MCC does not contest the amount of the unfunded service liability to be accumulated. Its proposal allows BWC to accumulate the full amount of the unfunded service liability, over an eight year period, the maximum allowable time frame for funding, rather than the three year period proposed by the Applicant. The MCC's primary reason for proposing accumulation over an eight period, as opposed to the three year period, is to lessen the rate shock that will experienced by ratepayers.

31. The information elicited from the Applicant's witnesses indicates that the ratepayers, who are responsible for funding the unfunded past service liability of the pension plan, run the risk of having additional costs placed on them by an elongated term for

funding of this liability. The following three factors could significantly increase the amount of the unfunded service liability of the pension plan; 1) legislative action 2) declines in interest rates and, 3) the retirement of an employee covered by the plan.

The effects the three factors could have on the amount of unfunded service liability that ultimately will be payable by subscribers are impossible to quantify, but certainly are germane considerations in determining the appropriate period for accumulation of the funds.

32. The issue of the proper accumulation period for the unfunded service liability is subjective; both the MCC and the Applicant have presented periods that in their opinion are reasonable. The Commission believes that the rationale presented by the Applicant in support of its shorter accumulation period considers factors that could increase the ratepayers exposure to increased liability through extension of the accumulation period to the maximum allowable term. The Commission finds that the Applicant's proposal to accumulate the unfunded service liability over a three year period is reasonable.

33. The last operation and maintenance expense adjustment disputed by the MCC is BWC's proposal to recover \$31,000 in repair expense for its Big Hole pump #4. During cross-examination at the October 27, 1987, hearing Mr. Cox stated that repair had not yet

begun and that he did not believe any of \$31,000 repair expense had been paid. The fact that repairs had not yet been initiated, as of the date of the hearing, brought into question whether or not this repair and associated expense would actual occur within 12 months of the close of the test year in this Docket. Since the timing of completion of the repair and expense was crucial to allowance or disallowance of this expense in this Docket the Commission staff followed up on the completion of the repairs. The information obtained from the Applicant indicated that the repairs were not completed until January, 1988, which is beyond the allowable 12 month adjustment period for known and measurable changes. The Commission finds that the Applicant's request to recover Big Hole pump repair expense in this Docket is denied and the Applicant's pro forma adjustments increasing expenses should be reduced by \$31,000.

34. The Commission's denial of the recovery of the Big Hole pump repair expense, because it is beyond the allowable adjustment period is consistent with the Commission's treatment of other expenses in this Docket. It should be noted that another adjustment that would decrease BWC's recoverable expenses was discussed during the hearing but could not be considered for the same reason. Renegotiated union employee contracts took effect January 1, 1988. Based on information provided by the Applicant,

the new contracts entered into by the Applicant and the unions reduced the overall compensation received by these employees, by approximately \$98,000 annually.

35. In Order No. 5194a, BWC's last general rate decision, the Commission adjusted electrical expense to reflect a normalized level of electrical consumption for the utility. In this Docket the Applicant did not normalize its electrical expense in a manner consistent with this Commission's prior Order. The Applicant's failure to make a normalization adjustment in a manner consistent with this Commission's prior decision requires that the Commission make this adjustment.

36. In Order No. 5194a this Commission utilized the preceding four years (1982-1985) of actual electrical consumption information to determine a normalized usage to calculate electrical expense.

In this Docket the Commission will use the same procedure using the actual electrical consumption from 1983 through 1986. The normalized electrical usage, using the information for the years 1983-1986, is 10,819,300 kwh.

37. The Applicant in calculating its test period electrical expense of \$473,930 used the actual 1986 kilowatt hour (kwh) consumption of 12,370,000. Based on the information available the Commission calculates test period normalized electrical expenses of \$414,689. Reflection of the calculated normalized electrical

expense reduces the Applicant's pro forma adjustments to operation and maintenance expense by \$59,241.

38. Based on the preceding Findings of Fact pro forma operation and maintenance expenses are found to be \$2,888,705, recognizing total pro forma adjustments increasing expenses by \$289,174.

DEPRECIATION EXPENSE

39. The test period depreciation expense is not a contested issue in this Docket. The Applicant proposed depreciation expense of \$134,601, which is accepted by the Commission.

TAXES OTHER THAN INCOME

40. The Applicant proposed an expense for "Taxes Other Than Income" at present rates of \$205,734. Two taxes, the Montana Consumer Counsel tax and the Public Service Commission tax, are calculated as a percentage of the gross revenue of the utility. The Applicant calculated its tax liability on a gross revenue of \$3,261,439 for these taxes. The Commission in this order has recognized gross revenue at present rates of \$3,359,838, as a result, the Applicant's liability for these two taxes has increased. The Commission recognized a total increase in revenues of \$98,399. Applying the combined rate for MCC and PSC tax of .0037 to the increased revenue increases these taxes by \$364.

41. The Applicant reduced "Taxes Other Than Income" by \$992 to reflect a reduced property tax liability resulting from its removal of land not used and useful. The Commission in the rate base section of this order did not remove these lands from rate base, therefore this adjustment reducing property taxes must be reversed. The Commission finds "Taxes Other Than Income" to be \$207,090.

RATE BASE

42. The Applicant proposed an average original cost depreciated rate base of \$3,337,334.

43. The Applicant proposed two adjustments reducing rate base that the MCC opposed. The Applicant contends that it has approximately 150 acres of land worth \$16,210 included in rate base that is no longer used and useful in the provision of service to consumers. Since in the opinion of the Applicant this land is no longer used and useful it proposes to remove \$16,210 from rate base, thus relieving the ratepayers of the burden of supporting these properties. BWC used original cost as the value of the property to be removed from rate base.

44. The MCC disagrees with the Applicant's proposal to remove these properties from rate base at the calculated original cost. The MCC's expert witness, Frank Buckley, made the following statements in his prefiled testimony regarding the Applicant's proposed removal of this property from rate base:

I do not believe this is the most appropriate treatment.

It would allow for the future possibility of sale of such properties at a possible gain without the ratepayer receiving any benefit, although they bore the financial and economic burden of supporting these properties.

In Docket No. 86.3.7, I testified why I felt any gain resulting from these types of sales belong to the ratepayer. That philosophy was adopted by the Commission.

The best or most appropriate treatment would be to remove these properties now at their

current fair market value, thus relieving the ratepayer of financial and economic burden and crediting them with the gain. This cannot be done at this time, because the Company indicates it does know the current market value.

An alternative to that approach is to remove the properties from rate base at their estimated original cost, then allow BWC to capitalize carrying costs on such properties equal to the allowed rate of return along with an property taxes and any other expenses which can be directly identified with such properties. These total sums would then be used in the calculation of any gains from any subsequent sales, thereby protecting the current and future interests of both the stockholder and ratepayer.

45. The issue of removing these properties from rate base is not just a simple determination that the property is no longer used and useful in the provision of service. There is also a need to consider what value is to be assigned to the property being removed. Removal of these properties from rate base at fair market value as proposed by the MCC would insure that the ratepayer receives the benefit of the gain. Removal of the properties from rate base at original cost as proposed by the Applicant flows the gain to the equity investor. In Order No. 5194a the Commission determined that the gain on the sale of similar property should benefit the ratepayer, but the Commission also stated in that Order that there is no hard and fast rule to determine who should benefit from the gain, equity investor or ratepayer.

There was no significant discussion regarding which party should receive the benefits, therefore, at this time the Commission is unable to establish the value at which these properties should be removed.

46. The record in this Docket, regarding the used and useful aspects of the land to be removed from rate base, did not detail the assumptions made by the Applicant in determining that the property was no longer used and useful. Absent full particulars surrounding the Applicant's recent determination that property it has held for many years is suddenly no longer used and useful, the Commission is unable to make an informed decision regarding the appropriateness of this proposal.

47. The Applicant in the testimony of one its witnesses, and in its opening brief, stated that if the Commission determined that the Applicant's proposal to remove property from rate base as presented was unacceptable, the property should be considered used and useful and its request withdrawn. The Commission, given the lack of details surrounding this adjustment, accepts the Applicant's request that the proposed rate base adjustment removing properties be withdrawn. Based on the preceding the Commission finds that the Applicant's rate base should be increased by \$16,210.

48. The Applicant contends that the Commission erred in its Order Nos. 5194a and 5194b when it did not recognize a reduction in BWC's rate base for deferred federal income taxes. The Applicant in this Docket proposes to reduce its rate base by \$6,463, the amount of the deferred income taxes.

The MCC opposes this adjustment on the grounds that the Commission in the previously referenced orders made no provision for income taxes and, therefore the adjustment should be disallowed. For reasons that will be discussed in the income tax section of this order the Commission finds that the adjustment reducing rate base by \$6,643 should be accepted.

49. Based upon the preceding Findings of Fact, the Commission finds the Applicant's original cost depreciated rate base should be \$3,353,544.

INCOME TAXES

50. The income tax issues, with the exception of deferred federal income tax expense, are the same as those presented by BWC in Docket No. 86.3.7. The Commission issued Order Nos. 5194a and 5194b disposing of all matters in that Docket. The Applicant presented no new arguments for Commission consideration of the income tax issue. The Commission reaffirms its findings in the

previously cited orders, regarding the income tax treatment to be afforded BWC, and finds that the Applicant's request to recover income tax expense should be denied.

51. The Applicant has requested that the Commission reflect deferred federal income tax expense that result from accelerated depreciation used for income tax purposes. The Applicant contends that the Commission's failure to include deferred income tax expense jeopardizes the utility's use of accelerated depreciation for tax purposes. The Applicant believes that failure to recognize the deferred taxes represents a flow through of benefits arising from use of the accelerated depreciation, in violation of the normalization principles, and this will cause the Internal Revenue Service (IRS) to disallow use of accelerated depreciation for BWC.

The Applicant also asserts that the deferred income tax expense would not be offset by net operating loss carryforwards (NOLS). In his rebuttal testimony Don Cox emphasized the fact that the deferred taxes will have an affect on the Applicant 15 to 20 years from now, long after the NOLS have expired.

52. The MCC does not share BWC's opinion that deferred taxes must be considered by the Commission in order to protect BWC's ability to use accelerated depreciation for tax purposes. The MCC

asserts that the Commission's disallowance of tax expense in the approved cost of service negates the Applicant's argument regarding violation of normalization principles and possible disallowance of accelerated depreciation by the IRS.

53. The Commission disagrees with the MCC's position regarding disallowance of deferred federal tax expense. The Commission is persuaded by the assertions of the Applicant that a violation of the normalization principle occurs by not recognizing the expense. The Commission for purposes of this order will give consideration to deferred federal income tax expense in the amount of \$12,926.

54. Based upon the Findings of Fact contained herein, the Commission finds BWC's test period operating income to be \$116,516 calculated as follows:

Operating Revenue	\$3,359,838
Operating Deductions	<u>\$3,243,322</u>
Operating Income	\$ 116,516

REVENUE REQUIREMENT

Rate Base	\$3,353,544
Rate of Return	<u>12.25%</u>
Return Requirement	\$ 410,809
Adjusted Balance Available for Return	116,516
Return Deficiency	294,293
Revenue Deficiency	295,382
MCC-PSC Tax at .0037%	<u>1,089</u>
Income Available for Return	\$ 294,293

55. In order to produce a return of 12.25 percent on the Applicant's average original cost depreciated rate base, the Applicant will require additional annual revenues in the amount of \$295,382 from its Butte, Montana, water utility.

RATE DESIGN

56. The Applicant prepared a cost of service study for this proceeding and based upon information contained in that study developed its proposed rate design. The information contained in the cost of service study indicates that two customer classes, metered service and fire lines, should receive a reduction in rates. BWC does not suggest that both customer classes deserving a rate reduction, based purely on cost considerations, receive that

reduction. Instead the Applicant proposes that rates for fire service lines remain at the current level. The excess revenue from this customer class would be applied to the cost of service for metered customers reducing the overall cost of providing service to this class. The Applicant then proposes to reduce the water rates for metered consumers.

57. The Commission disagrees with this proposal. Information elicited during the course of this proceeding indicated that BWC would be filing annual rate increases with this Commission for sometime to come. The Applicant's proposal to decrease rates for metered consumers would provide this customer classification with a false price signal when subsequent rate filings may result in increased rates for this customer class. The Commission finds that the Applicant should flow any excess revenues generated from its cost of service calculation to flat rate water service. The Commission proposes to flow the excess revenues to flat rate water service because the cost of service study indicates that this customer class will receive the largest increase in rates. The Commission by flowing the excess revenue to flat rate service, lessens the rate shock that customers are currently experiencing and will continue to experience.

58. Except as noted above, the Commission accepts the rate design proposals of the Applicant.

RULES

59. ARM 38.5.2503(6)(b) states:

The utility shall make provisions in its tariff for the extension of service mains through special rules to be approved by the Commission.

In this Docket BWC proposed a rule on main extensions and a rule on multiple service connections on a single service line. These rules were reviewed by the MCC and Commission staff. Staff proposed some modifications to the rules that were acceptable to BWC. The rules to be adopted pursuant to ARM 38.5.2503(6)(b) are included as an attachment to this order. The rules filed in compliance with this order should be filed by BWC as special rules S-19 through S-21.

CONCLUSIONS OF LAW

1. The Applicant, Butte Water Company, is a public utility as defined in Section 69-3-101, MCA. The Montana Public Service Commission properly exercises jurisdiction over the Applicant's rates and service pursuant to section 69-3-102, MCA.

2. The Commission has provided adequate public notice and an opportunity to be heard as required by Section 69-3-303, MCA, and Title 2, Chapter 4, MCA.

3. The rates and rate structure approved in this order are just and reasonable. Sections 69-3-201, and 69-3-330, MCA.

ORDER

NOW THEREFORE, IT IS ORDERED THAT:

1. Butte Water Company shall file rate schedules which reflect an increase in annual revenues of \$295,382 for its Butte, Montana service area. The increased revenues shall be generated by increasing rates and charges as provided herein.

2. The rates approved herein shall not become effective until approved by the Commission.

3. The Applicant is authorized to implement rules as provided herein.

DONE IN OPEN SESSION at Helena, Montana this 23rd day of February, 1988, by a vote of 3 - 0.

BY ORDER OF THE MONTANA PUBLIC SERVICE COMMISSION

JOHN B. DRISCOLL, Commissioner

HOWARD L. ELLIS, Commissioner

TOM MONAHAN, Commissioner

ATTEST:

Ann Purcell
Acting Secretary

(SEAL)

NOTE: Any interested party may request that the Commission reconsider this decision. A motion to reconsider must be filed within ten (10) days. See 38.2.4806, ARM.